IN THE HIGH COURT OF JUDICATURE AT BOMBAY

TESTAMENTARY AND INTESTATE JURISDICTION

NOTICE OF MOTION NO.92 OF 2005

IN

TESTAMENTARY SUIT NO.39 OF 2005

Mr.Joe Peter Pires. ... Plaintiff/Petitioner.

vs.

Mr.Anthony Cardoz. ...Defendant/Caveator.

Mr.S.K.Mishra i/b. N.P.Bhavsar, for Petitioner.

Mr.Sanjay Jain, for Defendant.

CORAM: D.K.DESHMUKH,J.

DATED: 22nd September,2006

P.C.:-

1. This is a notice of motion taken out by the petitioner. The petitioner has filed the petition for letter of administration in relation to the estate left behind by the deceased Mr.Francis John Pires. By this notice of motion, the petitioner seeks order for removal of the caveat taken out by Mr.Anthony Cardoz. It is common ground that Mr.Anthony Cardoz is not in any way related to the deceased. The only ground on which the Caveator

claims to maintain his caveat is that the petitioner after the death of the deceased by a document dated 12.8.2004 created interest in favour of the caveator in the part of the estate left behind by the deceased. Obviously, this cannot be the ground for maintaining the caveat. The remedy of the caveator on the basis of the alleged agreement dated 12.8.2004 is elsewhere. Obviously, as the caveator is not in any way related to the deceased and cannot claim to be his heir, he does not have any caveatable interest in the property left behind by the deceased. Therefore, he is not entitled to maintain the caveat. Notice of motion is granted in terms of prayer clause (a). Notice of motion is disposed of.